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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/565,596	04/24/2006	Haruhiko Naruse	P29182	2367
7055 7590 01/29/2010 GREENBLUM & BERNSTEIN, P.L.C. 1950 ROLAND CLARKE PLACE RESTON, VA 20191				
EXAMINER DOAN, ROBYN KIEU				
ART UNIT 3732		PAPER NUMBER		
NOTIFICATION DATE 01/29/2010		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/565,596

Applicant(s)

NARUSE, HARUHIKO

Examiner

Robyn Doan

Art Unit

3732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 November 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 4-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/GS/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Applicant's Amendment filed 11/10/09 has been entered and carefully considered. Claims 1 and have been amended. Limitations of amended claims have not been found to be patentable over newly discovered prior art, therefore, claims 1-2, 4-16 are rejected under the new ground rejections as set forth below.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4-9, 12-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carlucci et al (USP # 5,921,254) in view of Imai et al (USP 5,170,809).

In regard to claims 1, 2, 8, 15, Carlucci et al discloses an electric dental flosser (fig. 2) comprising a drive shaft (20) rotationally oscillatable about its own axis (see fig. 2), a drive mechanism (35) operable to rotationally oscillate the drive shaft about its own axis (col. 1, lines 43-47), a floss holder (10) mounted on the drive shaft, the floss holder having a forked floss holding portion (11, 12) with a proximal end and an opposite distal end portions, a flosser element (col. 2, line 32) stretched taut the opposite distal end portions of the floss holding portion. Lai et al fails to show the flosser element being held

in a direction perpendicular to an axial direction of the drive shaft so as to pass across an extension line of the drive shaft and an intermediate portion of a line connecting an intermediate portion of the flosser element and the proximal end portion being positioned on an extension line of the drive shaft, wherein the floss holding portion being inclined such that the flosser element stretched on the floss holding portion being positioned on a further distal end side beyond a distal end of the neck portion in an axial direction of the drive shaft. Imai et al discloses an electric dental flosser (fig. 10) comprising a drive shaft (40), a drive mechanism (50), a floss holder (70c) mounted on the drive shaft, the floss holder having a forked floss holding portion (see fig. 10) with a proximal end and an opposite distal end portions, a flosser element (71c) stretched taut the opposite distal end portions of the floss holding portion being held in a direction perpendicular to an axial direction of the drive shaft (col. 5, lines 32-34); Imai et al also shows in another embodiment where the floss holding portion (70b, fig. 10) being inclined. It would have been obvious to one having an ordinary skill in the art at the time the invention was made to modify the flosser of Carlucci et al with the position of the floss vs. the drive shaft as taught by Imai et al. It would have been obvious to one having an ordinary skill in the art at the time the invention was made to substitute the base unit of Habibi for Savone, since a simple substitute of one known element (i.e. the floss holding element) for another to obtain predictable results such as an alternative way of cleaning the teeth would have been obvious. KSR International co. V. Teleflex Inc., 550 U.S.--, 82USPQ2d 1385 (2007). Further, it would have been an obvious matter of design choice to one having an ordinary skill in the art at the time the invention was

made to construct the flosser element to pass across an extension line of the drive shaft and to construct the floss holding portion being inclined such that the flosser element is positioned on a further distal end side beyond a distal end of the neck portion in an axial direction of the drive shaft as an alternative way of providing an effective way of cleaning the teeth. In regard to claims 4, 7, 9, 11, 14 and 16, Imai et al showed a neck portion (72, Imai et al, fig. 3) mounted on a drive shaft (40), a floss holding portion (74) mounted on the neck portion, wherein the neck and the floss holding portion being formed independently (see fig. 3), the floss holding portion having a plurality of flosser elements (71E, fig. 12) being stretched taut on the floss holder. It would have been obvious to one having an ordinary skill in the art at the time the invention was made to modify the floss holder of Carlucci et al with the floss holder as taught by Imai et al in order to easily place the flosser elements. In regard to claims 5, 12, it would have been obvious to one having an ordinary skill in the art at the time the invention was made to employ the floss holding portion with a biodegradable plastic material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416. In regard to claims 6, 13, Imai et al further shows the floss holder having a U-shape with opposite distal end surfaces (fig. 12), an outer side surface and a floss guide groove (86E) defined in the distal end surfaces and wherein a length of floss (71E) being wound around the floss holding portion while received in the floss guide groove. It would have been obvious to one having an ordinary skill in the art at the time the invention was made to modify the floss holder of Carlucci et al with the

floss holder as taught by Imai et al in order to better secure the flosser element to the floss holder.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Carlucci et al et al in view of Imai et al and further in view of Stern (USP 6,138,689).

Carlucci et al et al in view of Imai et al discloses the essential claimed invention except for the floss holder having an elastically deformable neck portion. Stern discloses a floss holder (fig. 1A) comprising a floss holder (13) having an elastically deformable neck portion (37). It would have been obvious to one having an ordinary skill in the art at the time the invention was made to employ the neck portion as taught by Stern into the device of Carlucci et al et al in view of Imai et al in order to better maneuver the device within the user's mouth.

Response to Arguments

Applicant's arguments with respect to claims 1, 2 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robyn Doan whose telephone number is (571) 272-4711. The examiner can normally be reached on Mon-Fri 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cris Rodriguez can be reached on (571) 272-4964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robyn Doan/
Primary Examiner, Art Unit 3732